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EXAMINER

MADSEN, ROBERT A

ART UNIT

PAPER NUMBER

1761

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14

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/519,999

Applicant(s)

OZAWA

Examiner

Robert Madsen

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 10, 11, 13-18 and 20-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10, 11, 13-18 and 20-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The amendment filed November 22, 2002 has been entered. Claim 14 has been cancelled. Claims 10, 11, 13-18, 21-29 remain pending in the application.

### ***Allowable Subject Matter***

2. The indicated allowability of claims 10, 11-18, 21-29 in Paper No. 12 is withdrawn in view of the full English translation of the Ooyama JP 03-136614A (referred to as Yoshio et al. '40313661A in Paper No. 17). The English abstract and drawings from the Japanese Patent were relied on as prior art in Paper No. 17. Although Applicant was provided with the English abstract and the full Japanese Patent in Paper No. 17, a full English translation of Ooyama JP 03-136614 was not made of record. Rejections based on the newly cited full English translation of Ooyama JP 03-136614 follow.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 26 and 28 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

5. The only support for the “generally spherical shape” limitation in these claims is provided in the Figures of the disclosure. However, in light of the prior art, the specification has not described the how to make the “generally spherical shape” depicted in the figures. The specification discloses forming the bag by “two piled up sheets of synthetic resin material being superior in heat resistance by applying a heat sealing to the periphery” (page 4) , and the figures show a “generally spherical shape”. The prior art, Ooyama JP 03-136614, teaches laying one sheet of synthetic resin material on top of another and sealing the edges, and the material withstands temperatures of  $-40^{\circ}\text{C}$  to  $120^{\circ}\text{C}$ ( Page 6, lines19-24), but do not show a “generally spherical shape” in the figures. Therefore, the specification does not described how one of ordinary skill in art would form a generally spherical shape, given the specification does not explain how one would arrive at the shapes in the figures by following the method of the prior art.

6. Therefore, for examination purposes, given no other distinction between the construction of the outer bags in the prior art and the outer bags of the specification of the present invention, other than the figures, the steps of laying one sheet of synthetic resin material on top of another and sealing the edges will be understood to form a generally spherical bag.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 26 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims recite the limitation "the high pressure". There is insufficient antecedent basis for this limitation in the claim.

Additionally, the term " high pressure " is a relative term which renders the claim indefinite. The term " high pressure " " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 20,22-25, 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Ooyama (JP 03-136614).

11. Regarding claims 20,22-25 Ooyama teaches an outer bag having a vapor releasing hole (i.e. bag 11 with steam pressure releasing vent 21) at the top of the bag, as recited in claim 22, and a selective liquid releasing hole (i.e. hot water draining opening 23) at the bottom of the bag as recited in claim 23, a first inner bag in the outer bag filled with liquid (i.e. water bag 12) with a liquid release hole (i.e. hot water draining opening 31) for releasing the water when heated, a second permeable inner

bag (food/drink container bag item 13) attached to the bottom of the outer bag (Page 8, lines 23 and 24) as recited in claim 24, containing edible fish or tea as recited in claim 25, for mixing with the discharged liquid from the first bag (English Translation Page 9, line 4 to Page 10, line 9 and Figures). Furthermore, in the explanation (i.e. example from Page 12 line 4 to Page 14, line 16), Ooyama teaches the liquid release hole (i.e. hot water draining opening item 31) of the first inner bag *may* be substituted with a steam pressure release hole (i.e. a steam pressure releasing vent, which Ooyama locates in the upper part of the outer bag Page 4, line 11 to Page 5, line 7) when the first liquid containing inner bag is positioned beneath a second inner bag to release *vapor* for heating the food products in the second inner bag from below, and thus requiring the vapor release hole to be in the upper part as recited in claim 20 (Page 14, lines 1-9).

12. Regarding claim 28, Ooyama forms the outer bag in the same manner as applicant (i.e. laying one sheet of synthetic resin material on top of one another and sealing the edges wherein the material withstands temperatures of  $-40^{\circ}\text{C}$  to  $120^{\circ}\text{C}$  Page 6, lines 19-24). Thus, Ooyama inherently teaches a generally spherical bag.

### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 10,11, 13-15,18,26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ooyama (JP 03-136614) in view of Hoffman (US 3683889).

15. Regarding claims 10,11,13,18,Ooyama teaches an outer bag having a vapor releasing hole (i.e. bag 11 with steam pressure releasing vent 21) and a selective liquid releasing hole (i.e. hot water draining opening 23), a first inner bag in the outer bag that is filled with liquid (i.e. water bag 12) and has a liquid release hole (i.e. hot water draining opening 31) for releasing the water when heated, a second permeable inner bag (food/drink container bag item 13) containing fish or tea, as recited in claim 11, for mixing with the discharged liquid from the first bag, and thus the water must be edible as recited in claim 13 (English Translation Page 9, line 4 to Page 10, line 9and Figures). Furthermore, in the explanation (i.e. example from Page 12 line 4 to Page 14, line 16), Ooyama teaches the liquid release hole (i.e. hot water draining opening item 31) of the first inner bag *may* be substituted with a steam pressure release hole (i.e. a steam pressure releasing vent, which Ooyama locates in the upper part of the outer bag Page 4, line 11 to Page 5, line 7) when the first liquid containing inner bag is positioned beneath a second inner bag to release *vapor* for heating the food products in the second inner bag from below, and thus requiring the vapor release hole to be in the upper part as recited in claim 10 (Page 14, lines 1-9). Ooyama heats the outer/inner bags by external heat source and is silent in teaching providing an internal heating element in the first inner bag as recited in claim 10, wherein the heating element comprises at least two separately stored chemicals that react upon application of force as recited in claim 18.

16. Hoffman is relied on as evidence of the conventionality of providing an internal heating element in the liquid holding portion of a container (including a bag) wherein the purpose of the bag is to heat the liquid to penetrate an interior bag containing a solid. Hoffman teaches the providing an internal heat source for these types of products is conventional and offers the advantage of an economical way of preparing these products without an external source of heat. Hoffman further teaches the element comprises two separate chemicals that react upon applying force to heat the container, as recited in claim 18 (Abstract, Column 1 lines 1-63, Column 2, lines 10-24, Column 4, line 44 to Column 5, line 39). Therefore it would have been obvious to include an internal heating element in the liquid containing bag of Ooyama wherein at least two separated chemicals react as a result of external force since it was known in the art to provide this type of heat source within a liquid compartment such that the liquid is heated to hydrate a solid in a separate permeable compartment in order to eliminate the need for an external heat source and make a more economical package. One would have been substituting one heating means for another for the same purpose.

17. Regarding claim 14, the second inner bag (food/drink container bag 13) is attached to the bottom surface of the outer bag (Page 8, lines 23 and 24).

18. Regarding claims 15, Ooyama teaches the second seal is released at a given pressure (Page 5, lines 21-24) and temperature (95-100°C in the example) to effectively steam/season the food for a particular time (1 minute 45 seconds in the example) without causing textural problems (example from Page 12 line 4 to Page 13, line 24 and Page 14 lines 1-24). Since the second seal is released at a particular



pressure/temperature, Ooyama teaches the second seal of the bag is time adjustable.

For example, a higher designated pressure for the second seal would result in a *longer* cooking time. Additionally, any particular designated pressure/temperature would depend on the amount of heat applied (i.e. a lower heat source temperature would require a longer time to reach the release pressure than a higher heat source temperature).

19. Regarding claim 26, Ooyama forms the outer bag in the same manner as applicant (i.e. laying one sheet of synthetic resin material on top of one another and sealing the edges wherein the material withstands temperatures of  $-40^{\circ}\text{C}$  to  $120^{\circ}\text{C}$  Page 6, lines 19-24). Thus, Ooyama inherently teaches a generally spherical bag.

20. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ooyama (JP 03-136614) in view of Hoffman (US 3683889), as applied to claims 10, 11, 13-15, 18, 26 above, further in view of Yoshio et al. (JP06329179).

21. Ooyama is silent in teaching, an indicator for displaying the time when the closure is open as recited in claim 16 and a pressure indicator as recited in claim 17.

22. Yoshio et al. ('179) also teach a second seal for an outer bag to maintain uniform pressure during cooking to assure a flavor (See item 24 in Drawing 16 in light of the Abstract, Paragraphs 0036-0038, 0044-0046). Yoshio et al. ('179) are relied on as evidence of the conventionality of providing an "indicator for displaying the time when the seal is open" since Yoshio et al. ('179) teach the seal lifts up and away from the bag when the desired pressure is reached, thus indicating time when the seal is open.

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Furthermore, by lifting away from the bag, the closure serves as a pressure indicator, or indicates pressure has exceeded the designated pressure (Drawings, Paragraphs 0036-0038,0044-0046). Therefore, it would have been further obvious to include a second closure that provides an indicator for displaying the time when the seal is open, as recited in claim 16, since one would have been substituting one type of second seal for another for the same purpose: maintaining uniform pressure during cooking to assure the desired flavor for a desired time. It also would have been to provide a second seal that provides a pressure indicator, as recited in claim 17, since this would signify when an excessive pressure has been reached and one would have substituting one type of second seal for another for the same purpose: maintaining uniform pressure during cooking to assure the desired flavor for a desired time.

23. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ooyama (JP 03-136614) as applied to claims 20,22-25,28 above, further in view of Hoffman (US 3683889).

24. Regarding claims 10,11,13, Ooyama heats the outer/inner bags by external heat source and is silent in teaching providing an internal heating element in the first inner bag as recited in claim 10.

25. Hoffman is relied on as evidence of the conventionality of providing an internal heating element in the liquid holding portion of a container(including a bag) wherein the purpose of the bag is to heat the liquid to penetrate an interior bag containing a solid. Hoffman teaches the providing an internal heat source for these types of products is

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conventional and offers the advantage of an economical way of preparing these products without an external source of heat. (Abstract, Column 1 lines 1-63, Column 2, lines 10-24, Column 4, line 44 to Column 5, line 39). Therefore it would have been obvious to include an internal heating element in the liquid containing bag of Ooyama since it was known in the art to provide this type of heat source within a liquid compartment such that the liquid is heated to hydrate a solid in a separate permeable compartment in order to eliminate the need for an external heat source and make a more economical package. One would have been substituting one heating means for another for the same purpose.

26. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ooyama (JP 03-136614) in view of Hoffman (US 3683889), as applied to claims 10,11, 13-15,18,26 above, further in view of Chung (US 5741534).

27. Although Ooyama teaches combining a two food components such as soup in the first interior bag and fish in the second inner bag, Ooyama is silent in teaching any additional second inner bags disposed around the first inner bag.

28. Chung also teaches preparing multi-component food products wherein the liquid seasoning component is package separately from the food component prior heating (Column 1, line8-column 2, line 7, Column 4, lines 13-32) and is relied on as evidence of the conventionality of separately packaging more than two food components (e.g. rice and vegetables) in addition to the liquid seasoning component (e.g. gravy). Therefore, to further add any additional second inner bags to the outer bag of Ooyama would have

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been an obvious matter of choice depending on the recipe since it was known to prepare multi-component food products wherein one component comprises a liquid seasoning and one or more additional components comprise separately packaged food products intended to be flavored by the liquid component.

29. Claims 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ooyama (JP 03-136614) in view of Hoffman (US 3683889), as applied to claims 20,22-25,28 above, further in view of further in view of Chung (US 5741534).

30. Although Ooyama teaches combining a two food components such as soup in the first interior bag and fish in the second inner bag, Ooyama is silent in teaching any additional second inner bags disposed around the first inner bag.

31. Chung also teaches preparing multi-component food products wherein the liquid seasoning component is package separately from the food component prior heating (Column 1, line8-column 2, line 7, Column 4, lines 13-32) and is relied on as evidence of the conventionality of separately packaging more than two food components (e.g. rice and vegetables) in addition to the liquid seasoning component (e.g. gravy). Therefore, to further add any additional second inner bags to the outer bag of Ooyama would have been an obvious matter of choice depending on the recipe since it was known to prepare multi-component food products wherein one component comprises a liquid seasoning and one or more additional components comprise separately packaged food products intended to be flavored by the liquid component.

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**Conclusion**


32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Katusnori JP 09-267872 teaches a similar outer bag as Ooyama wherein the bag forms a more spherical shape under pressure (Figure 16).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (703)305-0068. The examiner can normally be reached on 7:00AM-3:30PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703)308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9310 for regular communications and (703)872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0061.

  
MILTON I. CANO  
SUPERVISORY PATENT EXAMINER  
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Robert Madsen   
Examiner  
Art Unit 1761  
January 28, 2003